Remarks

Claims 1-48 were pending in the subject application. By this Amendment, claims 1, 3, 5, and 6 have been amended, and claims 2, 4, 10, 11, and 13-48 have been cancelled. The undersigned avers that no new matter is introduced by this amendment. Entry and consideration of the amendments presented herein is respectfully requested. Accordingly, claims 1, 3, 5, 6-9, and 12 are currently before the Examiner for consideration, and favorable consideration of the pending claims is respectfully requested.

Claims 1-4 and 7-12 have been rejected under 35 U.S.C. §112, first paragraph, as non-enabled. The applicants respectfully submit that the subject specification fully enables the claimed invention. Polyolefins are made by the polymerization of olefins, which are generally understood in the art to mean a family of unsaturated hydrocarbons with one carbon-carbon double bond (C_nH_{2n}). However, in order to expedite prosecution and lend further clarity to the claimed subject matter, the applicants have amended claim 1 to recite that the polyolefin comprises only hydrocarbons. Support for this amendment can be found, for example, at page 7, paragraphs 0029-0034 and page 9, paragraph 0043, and throughout the specification as originally filed. Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. §112, first paragraph, is respectfully requested.

Claims 1-5, 7-10, and 12 have been rejected under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as being obvious over Stewart (U.S. Patent No. 5,254,354). The applicants respectfully submit that the Stewart patent does not teach or suggest the applicants' claimed invention. However, by this Amendment, the applicants have amended the claims to lend further clarity to the claimed subject matter.

The applicants have amended claim 1 to incorporate the subject matter of claim 11, *i.e.*, to recite that the polyolefin contains about 50% to about 75% α-olefin by weight and about 25% to about 50% ethylene by weight. The applicants note that claim 11 was excluded from the prior art rejections in the outstanding Office Action. The Stewart patent does not teach or suggest a temperature-sensitive polymer material with the recited monomer concentrations. Moreover, at column 15, lines 62-68, the Stewart patent lists various polymers described as <u>not</u> suitable as temperature-sensitive permeable films based on their Q10 values, and polyethylene is included

among them (see Table 4). It is well settled that prior art references must be read as a whole and consideration must be given where the references diverge and teach away from the claimed invention. *Akzo N.V. v. United States International Trade Commission*, 1 USPQ 2d 1241, 1246 (Fed. Cir. 1986), cert. denied, 482, U.S. 909 (1987). Furthermore, as the Examiner is aware, in order to support a *prima facie* case of obviousness, a person of ordinary skill in the art must find both the suggestion of the claimed invention and a reasonable expectation of success in making that invention, in light of the teachings of the prior art. *In re Dow Chemical Co.*, 5 USPQ 2d 1529, 1531 (Fed. Cir. 1988). In the cited reference, one finds neither. Thus, the applicants respectfully submit that the claimed invention is not anticipated by, or obvious over, the cited reference. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. §102(b) and §103(a) is respectfully requested.

Claims 1-10, and 12 have been rejected under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as being obvious over Soehngen (U.S. Patent No. 4,255,376). The applicants respectfully submit that the Soehngen patent does not teach or suggest the applicants' claimed invention.

The Soehngen patent is directed to microporous polymer films, as opposed to temperature-sensitive permeable polymer materials. As indicated at column 8, lines 34-68, and column 9, lines 26-50, of the Soehngen patent, films are rendered microporous by their lowered bulk density and open-celled structure, compared to their precursor films. The list of olefin monomers at column 8, lines 1-9, of the Soehngen patent are indicated as suitable for the precursor films, to which the "solvent stretch" method is applied. The Soehngen patent only indicates that olefin homopolymers, or mixtures thereof, are to be used. The cited reference does not describe a copolymer. Moreover, the Soehngen patent does not teach or suggest that the olefin homopolymer used as the precursor, or copolymers comprising olefins, may exhibit temperature-sensitive permeability. The Soehngen patent provides no motivation to modify the polyolefin homopolymer used as the precursor in order to produce a temperature-sensitive permeable polymer material as recited in the claims. Thus, the applicants respectfully submit that the claimed invention is not anticipated by, or obvious over, the cited reference. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. §102 (b) and §103(a) is respectfully requested.

In view of the foregoing remarks and amendments to the claims, the applicants believe that the currently pending claims are in condition for allowance, and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16 or 1.17 as required by this paper to Deposit Account 19-0065.

The applicants invite the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,



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Attachment: Petition and Fee for Extension of Time